## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
	)	
	)	
VS.	)	No. 3:19-CR-220
BRYAN CORNELIUS,	)	(VARLAN/POPLIN)
	)	
	)	
Defendant.	)	

## **PROPOSED JURY INSTRUCTION**

**COMES** the Defendant, BRYAN CORNELIUS, by and through counsel, and respectfully submits the proposed jury instruction, based on Seventh Circuit Pattern Criminal Jury Instruction 5.10(A) and Sixth Circuit case law:

## **BUYER/SELLER RELATIONSHIP**

- (1) A conspiracy requires more than just a buyer-seller relationship between the defendant and another person. Additionally, a buyer and seller of a scheduled controlled substances do not enter into a conspiracy to distribute or possess with intent to distribute such scheduled controlled substances simply because a the buyer resells/exchanges such scheduled controlled substances to/with another person, even if the seller knows that the buyer intends to sell/exchange such drug.
- (2) To establish that a buyer or seller knowingly became a member of a conspiracy with another person to distribute or possess with intent to distribute a scheduled controlled substance, the government must prove that the buyer and seller had the joint criminal objective of distributing such scheduled controlled substance to others.

[authority: 7th Circuit Pattern Criminal Jury Instructions (2012); *United States v. Deitz*, 577 F.3d 672, 680 (6th Cir. 2009), citing *United States v. Cole*, 59 Fed. Appx. 696, 699 (6th Cir. 2003)

("Generally, a buyer-seller relationship alone is insufficient to tie a buyer to a conspiracy because

'mere sales do not prove the existence of the agreement that must exist for there to be a

conspiracy."); United States v. Brown, 332 F.3d 363, 372-73 (6th Cir. 2003) ("A defendant's guilty

knowledge and voluntary participation may be inferred from surrounding circumstances," including

a close relationship between alleged conspirators, but participation requires more than "mere

association with conspirators") (internal quotation marks omitted).]

Respectfully submitted this 8th day of April, 2022.

s/Gerald L. Gulley, Jr.
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(BOPR #013814)

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## **CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing document was filed electronically, with notice of this filing to be sent by operation of the Court's electronic case filing system; any other interested parties will be served by regular United States Mail with prepaid first-class postage thereon sufficient to cause delivery. Parties may access this filing through the Court's electronic case filing system.

This the 8th day of April, 2022.

By: s/Gerald L. Gulley, Jr.

Attorney